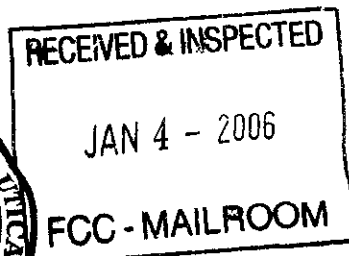




**Timothy J. Julian**  
Mayor



# CITY OF UTICA

1 Kennedy Plaza, Utica, New York 13502

## DEPARTMENT OF LAW

315-792-0171

Fax: 315-792-0175

**Linda Sullivan Fatata**

Corporation Counsel

**Charles N. Brown**

First Assistant Corporation Counsel

December 27, 2005

FCC

Attn: Secretary's Office

Closed Captioning

445 12<sup>th</sup> Street S.W.

Washington, D.C. 20554

### **RE: REQUEST FOR EXEMPTION FROM COMMISSION'S CLOSED CAPTIONING RULES**

The City of Utica, respectfully submits this petition requesting exemption from the closed captioning requirements under §79.1(d)(8), §79.1(d)(11) and §79.1(f) of the Commission's rules for a weekly program entitled "City Limits."

Each segment of the program, "City Limits," is taped and produced locally by Paul Buckley, Deputy director of Utica's Urban Renewal Agency, and is aired every Sunday morning at 11:00 a.m. on WFXV-TV 33, the local FOX Network affiliate. This allocated time slot has been made available for local origination programming.

The City makes the request for an exemption of this show under three exemptions.

The first basis for an exemption is under §79.1(d)(8) of the Commission's rules. The show "City Limits" is locally produced and concerns local issues with limited repeat value. Each "City Limits" program is aired twice a month with a new program produced bi-weekly. These programs are aired on WFXV-TV 33 on Sunday mornings at 11:00 a.m. on Adelphia Cable channel six (6) and is not networked outside WFXV-TV 33's broadcast area. It is not a marketing product of WFXV-TV 33.

The show is a vehicle to allow city residents an insight to the workings of a particular department within city government. For example, one segment of the show highlighted the City Assessor's office and explained the mechanism for obtaining relief from property taxes under a state program. The show also highlights new and exiting businesses and points them in the right direction in obtaining financial aid from the City of Utica or other government agencies in the form of start-up loans and grants. The program also serves as a community bulletin board and lists events and other points of interest to the viewing public. Thus the program serves as a vehicle for city government and its

department heads to explain their mission statements to the general public.

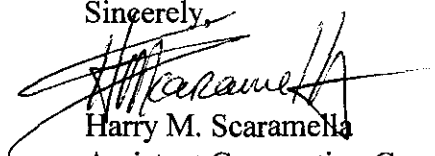
The content would be of no interest to anybody residing outside the local community.

The second basis for an exemption is under §79.1(d)(11). As the owner of the video programming, it appears that the City of Utica falls within the definition of video programming provider. As provided in the annexed affidavit of Paul Buckley, there are twelve advertisers who pay \$150.00 quarterly for advertising on the show. The annual revenue from advertisements is \$7,200.00. The local television station charges \$150.00 to air each show. Over 52 weeks the expense to air the show is \$7,800.00. The City of Utica does not possess the equipment needed to create the closed caption file and thus each program would have to be sent to an outside provider. The cost to create the file for closed captioning for each show would be \$250.00. Thus for 26 shows, the cost would be \$6,500.00 or \$541.67 per month. The costs of closed captioning would exceed 2% of gross revenues for the show.

The independent third basis for an exemption is under §79.1(f). The show "City Limits" is a self funding bi-weekly show that is locally produced and aired with content that is unique to the citizens of the Utica community. The show is wholly supported by revenues generated from advertisers and is not included in any other budget. As itemized in the paragraph above, the show does not generate a profit and in fact runs at a deficit. The cost for captioning far exceed any revenue source. Paul Buckley has verbally solicited WFXV-TV 33 to see if they can provide the captioning as a public benefit but has been unable to negotiate this free service. Should the Commission deny this request for an exemption, the show would not have the revenue to acquire the closed caption service and thus would have to close.

For the above stated reasons, the City of Utica is requesting an exemption for closed captioning for the show "City Limits."

Sincerely,

A handwritten signature in black ink, appearing to read "H. Scaramella", written over a horizontal line.

Harry M. Scaramella  
Assistant Corporation Counsel

Encl.: Affidavit of Paul Buckley

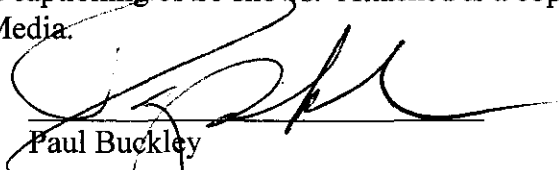
## AFFIDAVIT IN SUPPORT OF PETITION FOR EXEMPTION

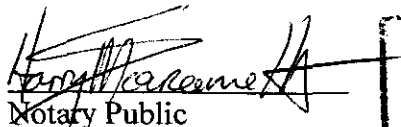
STATE OF NEW YORK     )  
COUNTY OF ONEIDA    )     ss.:

Paul Buckley, being duly sworn, affirms as follows:

- 1) I am the Deputy Director of the Urban Renewal Agency and am the producer of a local one-half hour bi-weekly show entitled "City Limits." As such, I am fully familiar with all the facts stated herein.
- 2) I provide my services as producer, director, videographer writer, editor, technician etc. in addition to my responsibilities as Deputy Director of Utica's Urban Renewal Agency.
- 3) The show "City Limits" has been in production since February, 2004, and is a bi-weekly show that is used to open City of Utica departments to the citizens of Utica. Thus, on each show, a department head explains a particular function of his or her department to the local citizenry for their education and benefit.
- 4) In addition, each show highlights any new businesses that have opened locally and upcoming local events are listed for the benefit of the viewers.
- 5) Each segment of the "City Limits" program is aired for two consecutive weeks on the local FOX affiliate WFXV-TV 33 in a one-half hour time slot. This show is not aired outside of the WFXV-TV 33 broadcast area.
- 6) After twenty two months of marketing to local businesses, twelve clients advertise on the show and are billed quarterly at a total price of \$150.00 per quarter for one advertisement slot on the show. This is \$50.00 per month or \$12.25 per show. The total annual gross revenues from these advertisers is \$7,200.00.
- 7) WUTR charges \$150.00 to air the show each week. This is a cost of \$7,800.00.
- 8) I do not have the equipment necessary to create the files necessary for closed captioning and the cost of acquiring this equipment is in the range of \$7,000.00 which makes it prohibitive. There are no local providers of closed captioning services. I contacted providers who quoted a cost of \$250.00 per program to provide the closed caption file for broadcast. This would create an expense of \$6,500.00 per annum for closed captioning of 26 shows. Attached is a copy of a Closed Captioning Quote from New Day Media.

Sworn to before me this  
27<sup>th</sup> day of December, 2005

  
Paul Buckley

  
Notary Public

HARRY M. SCARAMELLA  
Notary Public, State of New York  
Qualified in Oneida County  
Registration Number 02SC5062899  
Commission expires July 8, 2006